REMARKS

By the above amendments, claims 1, 8, 11, and 13 are revised, claim 2, 3, 6, 12, 14, and 15 are canceled, and new claims 19 and 20 are added to place this application in immediate condition for allowance.

First, claim 9 is rewritten as new claim 19 in light of the Examiner's indication of allowable subject matter. Claim 10 is replicated as new claim 20. Given the indication of allowability, claims 19 and 20 are now in condition for allowance.

Second, the rejection under 35 U.S.C. § 102(b) and United States Patent No. 3,823,255 to La Gase is moot by the incorporation of claims 2, 3, and 6 into claim 1.

Third, Applicants submit that La Gase does establish a *prima facie* case of obviousness against claim 1 in its amended form. For claims 2, 3, and 6, the Examiner admits that these features are not found in La Gase, but contends that it would be obvious to modify/optimize the characteristics of the tubing of La Gase and arrive at the values recited in the claims.

While Applicants dispute the position that the features of claims 2, 3, and 6 are obvious based on an optimization, there is another fundamental difference between the invention and La Gase that precludes it from being a valid reference under 35 U.S.C. § 103(a).

La Gase discloses an electrical insulation for a cable. In contrast, the invention relates to a ventilation tubing with good thermal and/or acoustical

insulation, see paragraph [0012] of Applicants' published patent application. The ventilation tubing is also resistant to fire and fluid, see paragraphs [0005 and 0010].

According to claim 1, the bush and cover sheet are a plastic sheet having a weave of interlaced filaments. Element 11 in La Gase, which is identified as the claimed bush, is an electrical conductor and it cannot be considered to be the claimed bush.

The aim of the invention is to lower the weight of tubing while increasing its performance, particularly with respect to the norms for resistance to fluids, i.e., ABD007, and norms for resistance to fire, i.e., ABD0031. See also paragraphs [0005 and 0010] of the published application.

The invention solves the weight problem noted above by the bush and a cover sheet, each of which is a plastic sheet having a weave of interlaced filaments and a specific surface weight between 30 and 65 g/m^2 and a thickness between 10 and 15 microns. In between the bush and cover sheet is a quartz fiber wool having a thickness of 6 to 15 mm and a specific surface weight between 65 and 150 g/m^2.

The alleviation of weight is clearly seen when reviewing the embodiment of the invention. More particular, a tubing having a bush with a thickness of 12.5 micron and a specific surface weight of 60 g/m^2, an insulating layer with a thickness of 12 mm and a cover sheet having a

thickness of 12.5 microns and a specific surface weight of 30 g/m^2 has a mass of 140 g/meter and an internal diameter of 75 mm. This translates to a weight of 1.7 kg for a tubing having a 12 meter length. This is contrasted with the prior art tubing, which has a weight of 3.6 kg for a 12 meter length. The inventive tubing meets the requirements of ABD007 and ABD0031, whereas the prior art tubing does not.

To recap, the tubing of La Gase is not even remotely similar to that now defined in claim 1 and this reference fails to establish a *prima facie* case of obviousness. Therefore, the rejection based on La Gase should be withdrawn.

It is also argued that the rejection based on an optimization of properties is improper since the purpose of the conductor of La Gase and the tubing of the invention are at odds. The variables of claim 1 are intended to produce a lower weight product, whereas La Gase's conductor is not even related to ventilation tubing. Lacking this similarity, it cannot be said that the various characteristics found in claim 1 are variables that would be routinely optimized in the context of La Gase. This is further substantiation that the rejection is improper and requires withdrawal.

Accordingly, the Examiner is requested to examine this application in light of this amendment and pass all pending claims onto issuance.

If the Examiner believes that an interview would be helpful in expediting the allowance of this application, the Examiner is requested to telephone the undersigned at 202-835-1753.

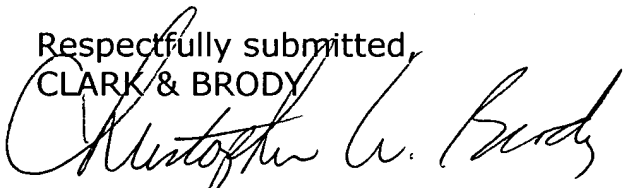
The above constitutes a complete response to all issues raised in the Office Action dated April 4, 2008.

Again, reconsideration and allowance of this application is respectfully requested.

A petition for a three month extension of time is hereby made. A check in the amount of $1,110.00 is attached.

Please charge any fee deficiency or credit any overpayment to Deposit Account No. 50-1088.

Respectfully submitted,
CLARK & BRODY



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